

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

TRUSTEES OF THE PLUMBERS AND GASFITTERS  
LOCAL UNION NO. 12 WELFARE, PENSION, ANNUITY,  
VACATION & XMAS and FRINGE BENEFIT FUNDS;  
TRUSTEES OF THE PLUMBERS AND PIPEFITTERS  
NATIONAL PENSION FUND; AND PLUMBERS AND  
GASFITTERS LOCAL UNION NO. 12

Civil Action No.

Plaintiffs

VS.

HOMELAND MECHANICAL LLC

April 26, 2018

Defendant

**COMPLAINT**  
**(TO COLLECT CONTRIBUTIONS DUE TO PLAINTIFFS BENEFIT TRUST FUNDS  
AND FOR BREACH OF COLLECTIVE BARGAINING AGREEMENT)**

1. This is a collection action pursuant to Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §1001, et seq., as amended by the Multi-Employer Pension Plan Amendments Act, 29 U.S.C. §1381 et seq., and the Labor Management Relations Act of 1947, 29 U.S.C. § 185, brought on behalf of the Trustees of the Plumbers and Gasfitters Local Union No. 12 Welfare, Pension, Annuity, Vacation & Xmas and Fringe Benefit Funds (hereinafter "the Local 12 Funds"); the Trustees of the Plumbers and Pipefitters National Pension Fund (hereinafter "the NPF") (collectively

with the Local Funds "the Funds"); and the Plumbers and Gasfitters Local Union No. Local 12 (hereinafter "the Union") (collectively "the Plaintiffs") for breach of contract arising from unpaid Benefit Trust Funds contributions and late fees and damages pursuant to a Collective Bargaining Agreement (See Collective Bargaining Agreement, Attachment 1).

2. This court has jurisdiction, and venue lies in this District pursuant to ERISA § 502 (e)(1) and (2); 29 U.S.C. § 1132(e)(1) and (2), § 515; 29 U.S.C. § 1145; the LMRA § 301 (a), 29 U.S.C. § 185(a), and 28 U.S.C. § 1331.

3. Defendant Homeland Mechanical LLC (hereinafter "Homeland") is an "employer" within the meaning of 29 U.S.C. §1002(5) with a principal place of business located at 39 Broad Street, Quincy, MA, 02169 and is an employer in an industry affecting commerce within the meaning of 29 U.S.C. § 142(1) and § 152 (2), (6) and (7).

4. Defendant Homeland is a member of the Greater Boston Association of Plumbing, Heating, Cooling Contractors, Inc. (hereinafter "Association") and has assigned its bargaining rights to the Association for purposes of negotiating a Collective Bargaining Agreement with the Union. Defendant Homeland is party to and bound by the Collective Bargaining Agreement (hereinafter "CBA") between the Association and the Union that requires certain hourly wage payments and Funds contributions for each hour of work in which plumbers and apprentices covered by the CBA are employed by Homeland.

5. Plaintiff Funds are third-party beneficiaries of the CBA between the Association and the Union.

6. Plaintiff Funds are "fiduciaries" within the meaning of Section 502(a)(3) of ERISA, 29 U.S.C. §1002(37)(A) and each is an "employee benefit plan" or "plan" within the meaning of Section 3(3) of ERISA, 29 U.S.C., §1002(3). The Local Funds office is located at 1230-1236 Massachusetts Avenue, Boston, Massachusetts 02125.

7. Plaintiff Union is a labor organization as defined in LMRA § 2(5). The Union's office is located at 1230-1236 Massachusetts Avenue, Boston, Massachusetts 02125.

**COUNT I: ERISA – Claim for Delinquent Funds Contributions**

8. Paragraphs 1-7 are incorporated herein.

9. At all material times, Homeland is obligated by the terms of the CBA and by the terms of the Funds' Agreement and Declaration of Trust to which Defendant is bound to make contributions to the Plaintiff Funds and Union for each hour worked by its employees who perform plumbing work covered by the CBA.

10. Consistent with the CBA and the Plan Documents, Funds contributions are due on the fifteenth (15<sup>th</sup>) day of the month following the month in which the contributions accrued, but, in no event, later than the thirtieth (30<sup>th</sup>) day of the month following the month in which the contribution accrued (e.g., contributions for hours worked in December are due January 15<sup>th</sup>, but no later than January 31<sup>st</sup>).

11. Defendant Homeland has failed to make required contributions to the Plaintiff Funds in violation of Section 515 of ERISA, 29 U.S.C. § 1145 as follows:

(a) Defendant Homeland is delinquent in paying contributions owed to the Local 12 Funds as follows:

- (i) December 2017, in the amount of \$14,540.40; and
- (ii) January 2018, in the amount of \$11,424.60; and
- (iii) February 2018, in the amount of \$15,786.72; and
- (iv) March 2018, in the amount of \$13,923.84;

a four month total of **\$55,675.56**.

(b) In addition, Defendant owes contributions to the National Pension Fund (NPF) for period of October through March 2018 in the amount of **\$ 861.39**.

12. Defendant Homeland continues employing plumbers and will therefore owe contributions for ensuing months during the pendency of this Complaint. Thus, the judgment will likely be greater than that claimed at the time of this filing.

13. Each month in which a delinquency arose, Plaintiff Local 12 Funds forwarded demand correspondence to Defendant Homeland requesting payment of the delinquent contributions and explaining that failure to submit contributions would result in litigation in which Defendant Homeland would be required to pay the delinquent contributions, plus liquidated damages, interest, costs and attorney's fees.

14. Each month, Plaintiff Local 12 Funds forwarded demand correspondence and have repeatedly explained that failure to forward payments would result in late fee charges pursuant to the terms of the Collective Bargaining Agreement and the Collection Policy of the Funds. As of April 15, 2018, Defendants owes the Funds **\$2,896.65** in late fees on the delinquent contributions that accrued subsequent to late paid contributions for the Months of June 2017 through November 2017.

**COUNT II: LABOR MANAGEMENT RELATIONS ACT (Delinquencies & Late Fees)**

15. Plaintiffs incorporate by reference the above Paragraphs 1-14.

16. By the above action, Defendant Homeland violated the parties' Collective Bargaining Agreement, to which the Plaintiffs are parties or third-party beneficiaries with standing to bring a breach of contract claim pursuant to LMRA § 310(a), 29 U.S.C. § 185(a).

**COUNT III: LABOR MANAGEMENT RELATIONS ACT (bond)**

17. Plaintiffs incorporate by reference Paragraphs 1-16.

18. Defendant Homeland continues a pattern of chronic delinquency in Funds contributions payments.

19. Pursuant to Article VII-B, Section F of the Collective Bargaining Agreement, a signatory employer delinquent in payments of monthly Funds contributions and deductions more than once in a calendar year shall be required to

provide a fringe benefit bond or irrevocable letter of credit as provided in the Funds' Collection Policy.

20. Defendant Homeland is required to provide Plaintiffs a fringe benefit bond in the amount of ***Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00)*** as a result of Defendant's chronic pattern of monthly delinquencies.

**WHEREFORE**, Plaintiffs demand that a judgment be entered in accordance with Sections 502(a)(3) and 515 of ERISA, 29 U.S.C. § 1132(g)(2) and § 1145, and Section 301 of the LMRA, 29 USC § 185, as follows:

1. Issuing a court order that the Defendant:

(a) Pay to the Plumbers Local 12 Funds the unpaid delinquent contributions owed pursuant to the Collective Bargaining Agreement and Trust documents for the months of December 2017 through March 2018 in the amount of: **\$55,675.56**;

(b) Pay the delinquent contributions owed to the National Pension Fund for the period October 2017 through March 2018, the amount of: **\$861.39**;

(c) Pay the late fees accrued through the filing of this collections lawsuit in the amount of: **\$2,896.65**

**Total of (a)+(b)+(c): **\$59,433.60****

(d) Pay subsequent delinquencies and late fees that may become due and owing during the pendency of this suit;

(e) Pay interest on delinquent payments from the date of this lawsuit through the date of final payment;

- (f) Pay liquidated damages in an amount equal to the greater of interest on unpaid contributions or twenty percent (20%) of the unpaid contributions;
- (g) Obtain and provide plaintiffs with a fringe benefit bond in the amount of \$35,000 as required by the Collective Bargaining Agreement and the Funds' Collection Policy;
- (h) Pay all costs and reasonable attorney's fees incurred by the Plaintiffs in connection with this action; and

2. Ordering such other and further relief as this Court may deem just and proper.

DATED at East Hartford, Connecticut, this 26th day of April 2018.

Respectfully submitted,

/s/ Robert M. Cheverie, Esq.  
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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing Complaint has been served by certified mail, as required by Section 502(h) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1132(h), this 26th day of April 2018, on the following:

Secretary of the Treasury  
INTERNAL REVENUE SERVICE  
31 Hopkins Plaza, Suite B2  
Baltimore, MD 21201  
Attn: Employee Plans

Secretary of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210  
Attn: Assistant Solicitor for Plan  
Benefits Security

/s/ Robert M. Cheverie, Esq.  
Robert M. Cheverie, Esq.